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Proposed Attorneys for Official Committee of Unsecured Creditors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

**USA Commercial Mortgage Company
06-10725 – Lead Case**

**USA Capital Realty Advisors, LLC
06-10726**

**USA Capital Diversified Trust Deed Fund,
LLC
06-10728**

**USA Capital First Trust Deed Fund, LLC
06-10728**

**USA Securities, LLC
06-10729**

Debtors.

Jointly Administered

Chapter 11 Cases

Judge Linda B. Riegle Presiding

**Omnibus Response To Motions For
Return Of Funds From The Investor
Account**

Date: June 15, 2006

Time: 10:00 a.m.

Affecting:

☒ All Cases

or Only:

☐ USA Commercial Mortgage Company

☐ USA Capital Realty Advisors, LLC

☐ USA Capital Diversified Trust Deed Fund,
LLC

☐ USA Capital First Trust Deed Fund, LLC

The Official Committee of Unsecured Creditors of USA Commercial Mortgage Company (the "Committee"), responds to the several motions by investors who made prepetition payments that USA Commercial Mortgage Company ("Commercial Mortgage") deposited into its Investor Account, but which did not result in the assignment of the loan the investor sought to purchase. Those motions include:



1 • Motion For Order Authorizing Return Of Non-Invested Funds Of Jasper
2 Benincasa And Flocerfida Benincasa [DE 502, 233]¹

3 • Motion for Order Authorizing Return of Non-Invested Funds filed by
4 Florence Alexander, Stanley Alexander, Stanley Alexander Trust [DE 155]

5 • Motion for Authorizing Return of Non-Invested Funds filed by Crosbie B.
6 Ronning, Grable L. Ronning, The Bosworth 1988 Family Trust, The Wild Water Limited
7 Partnership [DE 194]

8 The Committee joins in Debtor's response [DE 326] to the investors' prior motions
9 suggesting that each investor's claim to funds in the DIP Investor Account must be
10 resolved through an interpleader action. Those investors as to whom either the sale of
11 their loan or the purchase of another loan was not closed, but as to which there are not
12 sufficient funds in the DIP Investor Account, appear to be unsecured creditors. They are
13 not entitled to payment prior to confirmation of a plan of reorganization.

14 Dated June 9, 2006.

15 **LEWIS AND ROCA LLP**

16 
17 By /s/ RC (#006593)

18 Susan M. Freeman, AZ 4199 (pro hac vice)

19 Rob Charles, NV 6593

20 *Proposed Attorneys for Official Committee of*
21 *Unsecured Creditors*

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26 ¹ The original motion was denied at the hearing on June 5, 2006. From papers filed by Benincasa, it appears that the new motion may be heard on June 15, 2006.